

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

Application 23427 Permit 16101 License

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE,
ADDING ENDANGERED OR THREATENED SPECIES TERM,
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 16101 was issued to Estero Mutual Water Company on November 10, 1970 pursuant to Application 23427.
2. A petition for an extension of time in which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board on April 13, 1998.
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time. Since this is Permittee's third extension of time, Division of Water Rights Staff recommends that this shall be Estero Mutual Water Company's final time extension.
4. Fish and wildlife species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

Complete application of the water to the proposed use shall be made by
December 31, 2005.

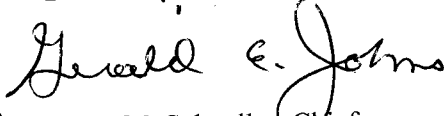
(0000009)

2. The addition of paragraph 18 to the permit to read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 5131 to 1544). If a "take" will result from any act authorized under this water right, the permittee/licensee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Dated: **JANUARY 28 1999**


for Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 23427

PERMIT 16101

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE, AMENDING
PERMIT AND CHANGING THE POINT OF DIVERSION

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use and a petition to change the point of diversion have been filed with the State Water Resources Control Board.
2. It appears that the permittee has proceeded with diligence and that good cause has been shown for extension of time and for changing the point of diversion.
3. The Board has determined that these changes will not operate to the injury of any other legal user of water involved.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

Application of the water to the proposed use shall be completed on or before December 1, 1983.

2. Permission is hereby granted to change the point of diversion to a point of diversion described as follows:

South 1200 feet and west 800 feet from NE corner of Section 21, T5N, R10W, MDB&M, being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 21.

3. Paragraph 11 of the permit be amended to read as follows: Pursuant to Water Code Section 100, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate agricultural

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

4. Paragraph 17 is added to this permit as follows:

Permittee shall consult with the Division of Water Rights and the Department of Water Resources and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the Board for approval within one year from the date of this order or such further time as may, for good cause shown, be allowed by the Board. A progress report on the development of a water conservation plan may be required by the Board within this period.

Dated: APRIL 15 1985

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 23427

PERMIT 16101

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE,
CHANGE IN THE POINT OF DIVERSION,
AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use and a petition to change the point of diversion on Estero De San Antonio have been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time and for the said change.
3. The Board has determined that the petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 1, 1995

2. Paragraph 2 of this permit regarding point of diversion is amended to read as follows:

South 1,150 feet and West 600 feet from NE corner of projected Section 21,
T5N, R10W, MDB&M, being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 21.

3. Paragraph 11 of this permit is deleted. A new Paragraph 11 is added as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

4. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board, if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in Water Quality Control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Dated: JULY 12 1978



Clint Whitney, Executive Director
Water Rights and Administration

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT No. 16101

Application 23427 of Estero Mutual Water Company

filed on January 9, 1970, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Estero De San Antonio

Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
<u>S 1700' and W 1400' from NE corner of</u>	<u>SW ¼ of NE ¼</u>	<u>21</u>	<u>5N</u>	<u>10W</u>	<u>MD</u>
<u>Section 21</u>	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				

County of Marin

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
<u>Domestic</u>	<u>S½ of SW¼</u>	<u>16</u>				
	<u>E½ of NE¼ and NE¼ of SE¼</u>	<u>20</u>				
	<u>All of (Oceana Marin</u>	<u>21</u>	<u>5N</u>	<u>10W</u>	<u>MD</u>	
	<u>Subdivision)</u>					

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 400 acre-feet per annum by storage to be collected from about October 1 of each year to about June 1 of the succeeding year.

The maximum rate of diversion to offstream storage shall not exceed 12 cubic feet per second.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005)

6. The maximum quantity herein stated may be reduced in the license if investigation warrants. (0000006)

7. Actual construction work shall begin on or before June 1, 1971 and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked. (0000007)

8. Said construction work shall be completed on or before December 1, 1973. (0000008)

9. Complete application of the water to the proposed use shall be made on or before December 1, 1974. (0000009)

10. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued. (0000010)

11. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board, if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

14. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage purposes. (0120050)

15. If the dam will be of such size as to be within jurisdiction of the Department of Water Resources as to safety, construction shall not be commenced until the Department has approved plans and specifications. (0360048)

16. Permittee is hereby put on notice that there may be times when the water at the point of diversion will be saline and the issuance of this permit shall not be construed as conferring upon permittee the right to the full flow of the stream for salinity repulsion purposes, at the expense of future upstream development. If and when future upstream applications are made, the State Water Resources Control Board will determine to what extent, if any, permittee is entitled to the flow for salinity repulsion. (0000999)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: NOV 10 1970

STATE WATER RESOURCES CONTROL BOARD

17. (0000019) WATER CONS.

K. L. Woodward
Chief, Division of Water Rights